

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:

Carolyn J. Yocom

Debtor(s).

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Case No.: 09-55541

Chapter 7

Judge Charles M. Caldwell

**MOTION OF JPMORGAN CHASE BANK, NATIONAL ASSOCIATION FOR RELIEF
FROM STAYFOR REAL PROPERTY LOCATED AT 661 FORRESTVIEW DR WEST,
WINTERSVILLE, OH 43953**

JPMorgan Chase Bank, National Association (the "Creditor"), by and through its mortgage servicing agent JPMorgan Chase, moves this Court, under §§ 361, 362, 363 and other sections of the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code") and under Rules 4001 and other rules of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for an Order conditioning, modifying or dissolving the automatic stay imposed by § 362 of the Bankruptcy Code. In support of this Motion, the Creditor states:

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. § 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.
2. On September 22, 2006, Carolyn J. Yocom obtained a loan from First National Bank of Arizona in the amount of \$15,850.00. Such loan was evidenced by a Promissory Note dated September 22, 2006 (the "Note"), a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it, the Debtor and Gordon Yocom executed a Mortgage dated September 22, 2006 (the "Mortgage"). The Mortgage granted a lien on the real property (the "Property") owned by the Debtor, located at 661 Forrestview Dr West, Wintersville, OH 43953 and more fully described in the Mortgage.
4. The lien created by the Mortgage was duly perfected by the recording of the Mortgage in the office of the Jefferson County Recorder on October 3, 2006. A copy of the Mortgage is attached as Exhibit B. The lien is the second lien on the property.
5. The Note and Mortgage are currently held by JPMorgan Chase Bank, National Association.
6. The value of the Property is \$120,500.00. This valuation is based on the Auditor's tax record which is attached as Exhibit C.
7. As of the date of this Motion, there is currently due and owing on the Note the outstanding balance of \$15,696.74, plus interest accruing thereon at the rate of 11.75% per annum from December 1, 2008.
8. Other parties known to have an interest in the Property are as follows:
 - a. the Jefferson County Treasurer;
 - b. Gordon Yocom;
 - c. America's Servicing Company is believed to be the holder of a 1st mortgage on the Property with an approximate payoff of \$127,000.00 per Debtor's Schedule D.

Attached as Exhibit D is Debtor's Schedule D.

9. The Creditor is entitled to relief from the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reason(s):

- a. Debtor has failed to provide adequate protection for the lien held by the Creditor for the reasons set forth below.
 - b. Per the Note and Mortgage, payments are applied to the last month due. Based upon the foregoing, Debtor has failed to make periodic payments to Creditor since December 2008, which unpaid payments are in the aggregate amount of \$983.94 through May 22, 2009.
10. Creditor has completed the worksheet attached as Exhibit E.
11. This Motion conforms to the standard form adopted in this District except as follows:

Clarification of language in Paragraph 3.
12. This Motion does not seek to affect the rights of the Chapter 7 Trustee.

WHEREFORE, Creditor prays for an Order from the Court granting Creditor relief from the automatic stay of 11 U.S.C. § 362 of the Bankruptcy Code to permit Creditor to proceed under law and for such other and further relief to which the Creditor may be entitled.

Respectfully submitted,

/s/ Holly N. Wolf

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Columbus OH 43216-5028
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Email: hnw@mdk-llc.com
Attorneys for Creditor

CERTIFICATE OF SERVICE
AND NOTICE OF REQUEST FOR RELIEF FROM STAY

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Stay was served this date electronically through the Court's ECF system at the address registered with the Court, and for NOTICE that the attached request for relief would be filed. All parties are hereby NOTIFIED that a written memorandum in opposition along with a request for a hearing must be filed with the Court and served on the undersigned within twenty (20) days from the date of service of this Motion. If no such memorandum in opposition is filed within that time period, the relief sought in the Motion may be granted. Pursuant to Local Rule 9021-1, the undersigned will present to the Court a proposed Order granting the relief sought if, within twenty-five (25) days after this date, no such written memorandum in opposition has been filed with the Court. This is to certify that a true and accurate copy of the foregoing Notice of Appearance and Request for Notices was served on the Debtor, counsel for the Debtor, the trustee, on the following required ECF participants, electronically through the Court's ECF system at the email address requested with the court on May 22, 2009. The below listed parties were served via regular U.S. Mail, postage prepaid on May 22, 2009. This certificate of service includes all known lien holders and interested parties who have an interest in the real property as listed in the petition and to the best of our knowledge

Nanette J. Dean
Attorney Debtor
50 West Broad Street
Suite 2250
Columbus, OHIO 43215
(notified by ecf)

Office of U.S. Trustee
Southern District of Ohio
Party of Interest
170 North High Street, #200
Columbus, OH 43215
(notified by ecf)

David M. Whittaker
Chapter 7 Trustee
100 South Third Street
Columbus, OH 43215
(notified by ecf and regular US Mail)

Holly N. Wolf
Attorney for Creditor
Manley Deas Kochalski LLC
P.O. Box 165028
Columbus, OH 43216-5028
(notified by ecf)

And on the following by **ordinary U.S. Mail** addressed to:

America's Servicing Company
Party of Interest
PO Box 10328
Des Moines, IA 50306
(notified by regular US Mail)

Jefferson County Treasurer
Party of Interest
301 Market Street
Steubenville, OH 43952
(notified by regular US Mail)

Gordon Yocom
Debtor
4234 Penith Court
Dublin, OHIO 43016
(notified by regular US Mail)

Carolyn J. Yocom
Debtor
3255 Brentwood Ct
Powell, OHIO 43065
(notified by regular US Mail)

Dated: May 22, 2009

Carolyn J. Yocom and Gordon Yocom
Debtor
661 Forrestview Dr West
Wintersville, OH 43953
(notified by regular US Mail)

David M. Whittaker
Chapter 7 Trustee
100 South Third Street
Columbus, OH 43215
(notified by ecf and regular US Mail)

Respectfully submitted,

/s/ Holly N. Wolf
Holly N. Wolf (0068847)